

AARON D. FORD  
Attorney General  
JANET L. MERRILL (Bar No. 10736)  
Deputy Attorney General  
State of Nevada  
Office of the Attorney General  
555 E. Washington Ave., Ste. 3900  
Las Vegas, Nevada 89101  
(702) 486-3370 (phone)  
(702) 486-3773 (fax)  
Email: jmerrill@ag.nv.gov

*Attorneys for Interested Party,  
Nevada Department of Corrections*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DIONDRE L. PARKER,

**Plaintiff,**

V.

M. PICKENS, *et al.*,

## Defendants

Case No. 3:22-cv-00543-MMD-CLB

**ORDER GRANTING STAY  
REQUESTED IN INTERESTED  
PARTY'S STATUS REPORT  
[ECF NO. 17]**

Interested Party, Nevada Department of Corrections (NDOC), by and through counsel Aaron D. Ford, Attorney General and Janet L. Merrill, Deputy Attorney General, hereby files its Status Report regarding the Order granting Motion for Modified Stay Pending Resolution of Criminal Proceedings issued by this Honorable Court on August 17, 2023. ECF No. 17.

On August 9, 2023, NDOC filed a Request for Judicial Notice. ECF No. 15. NDOC attached to its Request for Judicial Notice as Exhibit A-1, a copy of the Amended Criminal Complaint filed against offender Diondre L. Parker, #1129722 in the Justice Court of Ely Township No. 1, County of White Pine, State of Nevada, Case No. 22-CR-00148-7K. NDOC attached to its Request as Exhibit A-2, a copy of the Docket of Plaintiff's criminal case.

The Amended Criminal Complaint alleged three counts of Battery against Parker for striking and biting Correctional Emergency Response Team member Madeline Pickens

1 ("Parker Criminal Proceeding"). *See generally* ECF No. 15, at Exhibit A-1.

2 Also, on August 9, 2023, NDOC filed a Motion to modify the stay of the action. ECF  
3 No. 16. In its Motion, NDOC explained that there is an undisputable overlap between the  
4 criminal case against Diondrae Parker and the instant civil case. The two cases involve  
5 the same date, **February 10, 2022**, and same location, Ely State Prison. Screening Order,  
6 ECF No. 5, at 3:22 to 25; Amended Criminal Complaint, ECF No. 15, Exhibit A-1, at 1:13  
7 to 17.

8 This case involves numerous Defendants and allegations of Eighth Amendment  
9 excessive force, First Amendment retaliation and Fourth Amendment unreasonable  
10 search. *See generally* Screening Order. Parker names Correctional Officer Madeline  
11 Pickens in his §1983 civil action. ECF No. 6, at 5:5 to 13. In the criminal case, it is alleged  
12 that Parker used force against Madeline Pickens. *See generally* Amended Criminal  
13 Complaint, ECF No. 15, Exhibit A-1.

14 The Court granted NDOC's Motion and as part of the Order required NDOC to file  
15 a Status Report no later than 180 days after the issuance of the Order.

16 The Parker Criminal Proceeding is set for a Criminal Jury Trial starting on August  
17 6, 2024. *See Exhibit A*, attached hereto.

18 THE STATE OF NEVADA,

19 Plaintiff,

20 vs.

21 DIONDRAE LAMAR PARKER,  
22 #1129722,

23 Defendant.

24 **ORDER SETTING**  
**CRIMINAL JURY TRIAL**

25 IT IS HEREBY ORDERED that a jury trial in the above-entitled matter is set to  
commence on Tuesday, the 6<sup>th</sup> day of August, 2024, to continue through Wednesday, the  
26 7<sup>th</sup> day of August, 2024, at the hour of 9:30 a.m., at the White Pine County Courthouse,  
27 Ely, Nevada.

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1 NDOC submits this Status Report in compliance with the Court's Order. ECF No.  
2 17.

3 Moreover, NDOC respectfully submits that a continued stay remains warranted  
4 under the five factors set forth in *Keating v. Off. of Thrift Supervision*, 45 F.3d 322, 324–  
5 25 (9th Cir. 1995). NDOC re-iterates the analysis set forth in its Motion. ECF No. 16, at  
6 3:4 to 7:1.

7 In particular, Parker's Fifth Amendment rights may be implicated by parallel civil  
8 and criminal proceedings. *Id.*, at 5:4 to 9. The public's interest in the integrity of the  
9 criminal case is entitled to precedence over the civil litigant. *Id.*, at 6:22 to 7:1. And,  
10 participation in an Early Mediation Conference and settlement in this civil matter may be  
11 more productive when the Criminal Proceeding is complete. *Id.*

12 NDOC respectfully requests that the instant stay be continued until the completion  
13 of the trial in the pending Criminal Proceeding.

14 DATED this 9th day of February 2024.

15 AARON D. FORD  
16 Attorney General

17 By: /s/Janet L. Merrill  
18 JANET L. MERRILL (Bar No. 10736)  
Deputy Attorney General

19 *Attorneys for Interested Party,*  
20 *Nevada Department of Corrections*

21 ORDER

22 The stay in this case is continued until September 1, 2024. The parties are  
23 ordered to file a status report on or before that date.

24 **IT IS SO ORDERED.**

25 **Dated: February 12, 2024.**

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UNITED STATES MAGISTRATE JUDGE

## CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on February 9, 2024, I electronically filed the foregoing, **INTERESTED PARTY'S STATUS REPORT REGARDING MODIFIED STAY [ECF NO. 17]**, via this Court's electronic filing system. Parties that are registered with this Court's electronic filing system will be served electronically.

Diondre Parker #1129722  
c/o Law Librarian  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702  
[lawlibrarian@doc.nv.gov](mailto:lawlibrarian@doc.nv.gov)

Craig Miller  
An employee of the  
Office of the Attorney General

# EXHIBIT A

# EXHIBIT A

1 Case No. CR-2303074  
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**IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF  
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE**

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11 THE STATE OF NEVADA,  
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Plaintiff,

vs.

17 DIONDRAE LAMAR PARKER,  
18 #1129722,  
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Defendant.

**ORDER APPOINTING COUNSEL**

IT IS HEREBY ORDERED that the Nevada State Public Defender's Office, located at 1500 Avenue F, Ely, Nevada 89301 (775) 430-0386, is appointed to represent the above-named defendant, Diondrae Lamar Parker, in these proceedings.

DATED this 22<sup>nd</sup> day of January, 2024.

  
DISTRICT JUDGE

SEVENTH JUDICIAL DISTRICT COURT  
GARY D. FAIRMAN  
DISTRICT JUDGE  
DEPARTMENT 2  
WHITE PINE, LINCOLN AND EUREKA COUNTIES  
STATE OF NEVADA



1 Case No. CR-2303074  
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JUDGE'S SIGN  
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BY: H4 DEPUTY

5 IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF  
6 NEVADA, IN AND FOR THE COUNTY OF WHITE PINE  
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8 THE STATE OF NEVADA,  
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10 Plaintiff,  
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12 vs.  
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14 DIONDRAE LAMAR PARKER,  
#1129722,  
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Defendant.

ORDER SETTING  
CRIMINAL JURY TRIAL

16 IT IS HEREBY ORDERED that a jury trial in the above-entitled matter is set to  
17 commence on Tuesday, the 6<sup>th</sup> day of August, 2024, to continue through Wednesday, the  
18 7<sup>th</sup> day of August, 2024, at the hour of 9:30 a.m., at the White Pine County Courthouse,  
19 Ely, Nevada.

20 DATED this 22<sup>nd</sup> day of January, 2024.

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DISTRICT JUDGE



SEVENTH JUDICIAL DISTRICT COURT  
GARY D. FAIRMAN  
DISTRICT JUDGE  
DEPARTMENT 2  
WHITE PINE, LINCOLN AND EUREKA COUNTIES  
STATE OF NEVADA



1 Case No. CR-2303074

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BY: WA

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF  
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

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THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 DIONDRAE LAMAR PARKER,  
13 #1129722,

14 Defendant.

**PRETRIAL ORDER**  
**(Criminal Case)**

IT IS HEREBY ORDERED that:

1. The above entitled case shall be tried before a jury as a first setting  
commencing on Tuesday, the 6<sup>th</sup> day of August, 2024, at 9:30 a.m., to continue through  
Wednesday, the 7<sup>th</sup> day of August, 2024.

3. All Pretrial Motions shall be filed and served on or before June 7, 2024. A  
courtesy copy of any motion or opposition shall be delivered or mailed to the Court.

4. All exhibits shall be marked by the Clerk prior to trial.

5. Counsel for the respective parties shall meet prior to trial to resolve as many  
evidentiary disputes as possible.

6. Should the parties negotiate a resolution of the case, a written memorandum of the plea agreement shall be filed on or before July 31, 2024.

7. All proposed jury instructions shall be submitted to the Court no later than 4:00 p.m. on August 2, 2024.

DATED this 22<sup>nd</sup> day of January, 2024.

J. Damm  
DISTRICT JUDGE

**SEVENTH JUDICIAL DISTRICT COURT**  
**GARY D. FAIRMAN**  
**DISTRICT JUDGE**  
**DEPARTMENT 2**  
**WHITE PINE, LINCOLN AND EUREKA COUNTIES**  
**STATE OF NEVADA**



1 Case No. CR-2303074  
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WHITE PINE COUNTY CLERK

BY: MM, DEPUTY

5 IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF  
6 NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

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9 THE STATE OF NEVADA,  
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Plaintiff,

11 vs.  
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13 DIONDRAE LAMAR PARKER,  
#1129722,  
14

Defendant.

TRANSPORTATION ORDER

16 TO: **NETHANJAH BREITENBACH, WARDEN**  
17 **NNCC**  
18 **P.O. BOX 7000**  
19 **CARSON CITY, NV 89701**

20 **NEVADA DEPARTMENT OF CORRECTIONS**  
21 **CENTRAL TRANSPORTATION DIVISION**  
22 **P.O. BOX 7011**  
23 **CARSON CITY, NV 89702**

24 YOU ARE HEREBY ORDERED to transport DIONDRAE LAMAR PARKER, Back  
25 No. 1129722, who is currently in custody at Northern Nevada Correctional Center, to this  
Court for a jury trial set to commence on Tuesday, the 6<sup>th</sup> day of August, 2024, to continue  
through Wednesday the 7<sup>th</sup> day of August, 2024, at 9:30 a.m. at the White Pine County

SEVENTH JUDICIAL DISTRICT COURT  
GARY D. FAIRMAN  
DISTRICT JUDGE  
DEPARTMENT 2  
WHITE PINE, LINCOLN AND EUREKA COUNTIES  
STATE OF NEVADA



Courthouse in Ely, Nevada. Said Defendant should arrive at the Courthouse at 8:30 a.m.  
1 unless otherwise instructed by the court.  
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DATED this 23<sup>rd</sup> day of January, 2024.



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DISTRICT JUDGE

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SEVENTH JUDICIAL DISTRICT COURT  
GARY D. FAIRMAN  
DISTRICT JUDGE  
DEPARTMENT 2  
WHITE PINE, LINCOLN AND EUREKA COUNTIES  
STATE OF NEVADA

